

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 21827 of 2015 (C)

PETITIONER:

**NARAYANANKUTTY, AGED 61 YEARS,
S/O.SREEDHARAN, KAITHAVALAPPIL HOUSE,
NAYARAMBALAM VILLAGE, KOCHI TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.M.G.KARTHIKEYAN.

RESPONDENTS:

- 1. THE SUB INSPECTOR OF POLICE,
KATTOOR POLICE STATION, IRINJALAKKUDA,
THRISSUR DISTRICT- 680 121.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
IRINJALAKKUDA, THRISSUR DISTRICT -680 121.**
- 3. THE DEPUTY SUPERINTENDENT OF POLICE,
IRINJALAKKUDA, THRISSUR DISTRICT- 680 121.**
- 4. THE DISTRICT SUPERINTENDENT OF POLICE (RURAL),
THRISSUR -680 306.**
- 5. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM- 695 001.**
- 6. STATE OF KERALA,
REP. BY SECRETARY (HOME AFFAIRS),
GOVT. SECRETARIAT, THIRUVANANTHAPURAM -695 001.**

WP(C).No. 21827 of 2015 (C)

**7. THILESH, S/O.THILAKAN,
KATHIRAPPILLY HOUSE, PONJANAM P.O.,
KATTOOR VILLAGE, THRISSUR DISTRICT -680 702.**

**R1 TO R6 BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.
R7 BY SRI.RENJITH THAMPAN, SENIOR ADVOCATE.
ADVS. SMT.P.R.REENA,
SMT.SURYA BINOY.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- PHOTOCOPY OF THE ORDER DTD. 09/04/2015 IN WP(C).NO.11854/2015 PASSED BY THIS HON'BLE COURT.**
- P2:- PHOTOCOPY OF THE ORDER DTD. 09/06/2015 IN WP(C).NO. 11854/2015 PASSED BY THIS HON'BLE COURT.**
- P3:- PHOTOCOPY OF THE PETITION DTD. 18/07/2015 SUBMITTED BEFORE THE 1ST RESPONDENT WITH COPY TO RESPONDENTS 2 TO 6.**

RESPONDENT'S EXHIBITS:-

- EXT.R7A COPY OF THE NOTICE DATED 13/02/2015 ISSUED BY THE PANCHAYATH WITH ENGLISH TRANSLATION.**
- EXT.R7B THE MINUTES OF THE MEETING OF THE 8TH WARD GRAMA SABHA HELD ON 19/12/2014 WITH ENGLISH TRANSLATION.**
- EXT.R7C THE LETTER SENT BY THE PRESIDENT OF THE PANCHAYATH TO ASST. COMMISSIONER OF EXCISE, THRISSUR WITH ENGLISH TRANSLATION.**
- EXT.R7D THE COPY OF THE ORDER DATED 01/04/2015 OF THE PANCHAYATH WITH ENGLISH TRANSLATION.**

//TRUE COPY//

P.S. TO JUDGE

rs.

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 21827 of 2015

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Dated this, the 6th day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court seeking police protection in the matter relating to conduct of toddy shop TS No.45 in Group No.XVI in Irinjalakkuda excise range in Thrissur division. According to the petitioner, though he has a valid permit from the Excise Commissioner for conducting the shop, 7th respondent and his supporters are obstructing the functioning of the shop. According to the writ petitioner, physical obstruction is being created and the workers are being threatened as a result of which, he is unable to conduct the shop. Though complaint was given to the police, no action was taken to provide adequate protection and therefore petitioner has approached this Court.

2. Counter affidavit has been filed by the 7th respondent inter alia stating that petitioner does not have any licence under Section 232(1) of the Kerala Panchayat Raj Act or any other

statutory provision and therefore, the writ petition is not maintainable. Further, it is stated that the Panchayat has not been made party to the proceedings.

3. Going by the averments in the writ petition, it is stated that though Panchayat has issued Ext.R7(d) stop memo, petitioner has filed WP(C) No. 11854/2015 and an interim order of stay has been granted keeping in abeyance Ext.R7(d) and the interim order has been extended until further orders. According to the learned counsel for the petitioner, the issue as to whether the petitioner is having a valid licence from the Panchayat to operate the toddy shop is a matter pending before the learned Single Judge in WP(C) No.11854/2015 and therefore the said question does not arise for consideration in the present writ petition. Further, it is stated that the petitioner's right to carry on the business will always be subject to the result of the above writ petition.

4. Having regard to the aforesaid factual situation, we are of the view that since the issue relating to the petitioner's licence to conduct toddy shop is pending before the learned Single Judge in WP(C) No.11854/2015 and an interim order has been granted by the learned Single Judge staying the operation of the stop

-:3:-

memo issued by the Panchayat, the petitioner is entitled to continue functioning of the toddy shop and if there is any obstruction from the 7th respondent or their supporters, police has to maintain necessary law and order and ensure free ingress and egress.

In the result, this writ petition is disposed of as under;

(1) 1st respondent shall ensure maintenance of law and order in the matter relating to functioning of the toddy shop of the petitioner and shall ensure free ingress and egress.

(2) However, this judgment will be subject to any further orders of this Court in WP(C) No.11854/15 and the parties shall abide by the said judgment.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge